

REMARKS

Claims 1-10 are all the claims pending in the application. Claim 1 has been amended based on, for example, page 11 of the specification.

Entry of the above amendments is respectfully requested.

I. Response to Rejection of Claims 1-10 under 35 U.S.C. § 112, second paragraph

Claims 1-10 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

The rejection is respectfully traversed.

Specifically, in claim 1, the Examiner asserts that "and the molecule may contain a hetroatom or a halogen atom" seems redundant as oxygen is a heteroatom.

It is submitted that oxygen is not the only heteroatom, and thus the claim is not "redundant" as asserted by the Examiner. For example, sulfur is a heteroatom. Thus, it is submitted that claim 1 is definite and that one of skill in the art would be apprised of the meaning and scope of the claim.

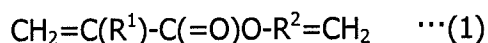
Accordingly, withdrawal of the rejection is respectfully requested.

II. Response to Rejection of Claims 1-3 and 5-10 under 35 U.S.C. § 103(a)

Claims 1-3 and 5-10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Toba et al. (JP 06-175565) and Ohe et al. (US 5,698,345).

The rejection is respectfully traversed.

Claim 1 is directed to an optical refractive index-modifying polymer composition comprising as a main component a polymer (A) which is a polymer of monomers including as an essential component an acrylic vinyl monomer represented by the following formula (1):



wherein R¹ represents a hydrogen atom or a methyl group, R² represents a saturated or unsaturated hydrocarbon group having 1 to 20 carbon atoms, and the molecule may contain a hetero atom or a halogen atom, wherein the polymer (A) contains a remaining radical-polymerizable side-chain vinyl group in the molecule, and the composition comprises a thermally curable polymer (B) in an amount of 5 to 60 parts by weight per 100 parts by weight of the polymer (A). The acrylic vinyl monomer is a vinyl methacrylate, vinyl ethyl methacrylate, vinyl octyl methacrylate, vinyl hexyl methacrylate, vinyl butyl methacrylate, vinyl acrylate, or vinyl ethyl acrylate.

Toba is cited as teaching a holographic recording material comprising a crosslinkable polymer, a free radically polymerizable compound (monomer), a cyanine dye, and a sulphonium borate photoinitiator. *See e.g.*, polymers t, u and v on page 12 used in Examples 26, 27 and 31 in the Table on page 15.

However, Toba does not disclose polymer (A), recited in claim 1. Although Toba discloses a polymer obtained from reacting vinyl monomers, it does not disclose the claimed acrylic vinyl monomers of formula (1). Thus, Toba does not disclose the claimed polymer (A).

Further, Ohe does not make up for the deficiencies of Toba.

For at least the above reasons, it is respectfully submitted that claim 1 is patentable over Toba, alone, or in combination with Ohe.

In addition, claims 2-3 and 5-10 depend from claim 1, and thus it is submitted that these claims are patentable for at least the same reasons as claim 1.

In view of the above, withdrawal of the rejection is respectfully requested.

III. Response to Rejection of Claims 1-10 under 35 U.S.C. § 103(a)

Claims 1-10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Toba et al. (JP 06-175565) and Ohe et al., further in view of Kawaguchi et al. (JP 2005-

126688).

The rejection is respectfully traversed.

The Examiner relies on Kawaguchi as teaching a chain extender. *See* [0080]. The Examiner asserts that it would have been obvious to combine the references with a reasonable expectation of success.

As discussed above, Toba does not disclose the claimed polymer (A) of claim 1.

In addition, Kawaguchi published on May 19, 2005, which is after the filing date of the priority application of January 7, 2005. Accordingly, a sworn English translation of the priority document JP 2005-002592, supporting the elements of the present claims is submitted herewith to remove Kawaguchi as a reference. Specifically, claims 1-10 of the present application are supported by at least claims 1-10 of the priority document.

Accordingly, withdrawal of Kawaguchi as a reference is respectfully requested.

For at least the above reasons, it is respectfully submitted that claim 1 is patentable over the cited art.

In addition, claims 2-10 depend from claim 1, and thus it is submitted that these claims are patentable for at least the same reasons as claim 1.

In view of the above, withdrawal of the rejection is respectfully requested.

IV. Nonstatutory Obviousness-type Double Patenting Rejections

Claims 1-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1, 2, 5-9 and 11-18 of copending application no. 10/574,478 (US 2007/0066705), now US 7,566,745, in view of Toba and Ohe.

Without conceding in the merits of the rejections and to advance prosecution, Applicants submit herewith terminal disclaimers to disclaim the terminal part of any patent granted on this application which would extend beyond the expiration of the full statutory term of U.S. Patent

7,566,745, which issued from Application No. 10/574,478.

In addition, Applicants submit that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.

In view of the above, withdrawal of the non-statutory obviousness-type double patenting rejections is respectfully requested.

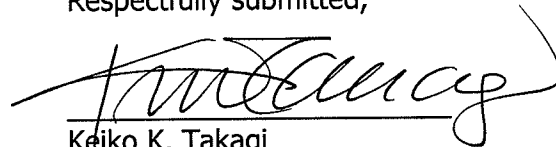
In addition, claims 1-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-3 of copending application no. 11/631,189 (US 2008/0305404) in view of Toba and Ohe.

Without conceding the merits of the rejections, it is respectfully requested that the provisional non-statutory double-patenting rejections be held in abeyance.

V. Conclusion

For the foregoing reasons, reconsideration and allowance of claims 1-10 is respectfully requested. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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CUSTOMER NUMBER

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